

COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

OPEN MEETING



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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

ORIGINAL

DATE: JANUARY 20, 2009

DOCKET NO: W-02105A-08-0262

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Order on:

MOUNT TIPTON WATER CO., INC.
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 70559)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JANUARY 29, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

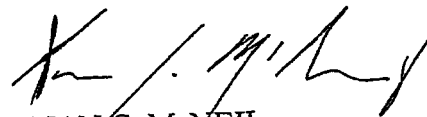
FEBRUARY 3, 2009 and FEBRUARY 4, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

JAN 20 2009

DOCKETED BY	MM
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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 MOUNT TIPTON WATER CO., INC. FOR AN
10 EMERGENCY RATE INCREASE.

DOCKET NO. W-02105A-08-0262

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 70559

11 Open Meeting
12 February 3 and 4, 2009
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 Having considered the entire record herein and being fully advised in the premises, the
16 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

17 **FINDINGS OF FACT**

18 1. On May 23, 2008, Mount Tipton Water Co., Inc. ("Mount Tipton") filed with the
19 Arizona Corporation Commission ("Commission") an application requesting emergency rate relief to
20 increase its cash flow so as to cover operating expenses and increase water availability to its
21 customers. Mount Tipton specifically requested an emergency rate increase of \$10.00 per customer
22 per month.

23 2. On October 23, 2008, the Commission issued Decision No. 70559, granting Mount
24 Tipton an emergency interim surcharge of \$10.00 per month per metered customer, with the
25 condition that the surcharge would not become effective and could not be billed for or collected until
26 after Mount Tipton had (1) posted a performance bond or irrevocable sight draft letter of credit in the
27 amount of \$20,000 with the Commission and (2) filed a Certificate of Good Standing to establish that
28 Mount Tipton had filed its 2008 annual report and come into good standing with the Commission's
Corporations Division. Among other things, the Decision also ordered Mount Tipton to engage in

1 discussions with Mohave County (1) to determine whether it is possible to have the amount of its
2 back tax liability attributable to interest, penalties, and fees waived or otherwise forgiven and (2) to
3 determine whether it is possible to establish a payment plan for the amount of back tax liability that
4 cannot be waived or otherwise forgiven and required Mount Tipton to file with the Commission, by
5 January 5, 2009, a document describing the outcome of its discussions with Mohave County and, if
6 those discussions were successful, providing additional prescribed details. The Commission found
7 that Mount Tipton had back tax liability of \$84,559.88 attributable to tax years 1976-1997, 2002, and
8 2004-2007, with the original tax liability accounting for \$67,117.77 and the remaining \$17,442.11
9 representing interest, fees, and penalties.

10 3. On November 14, 2008, Mount Tipton filed a letter stating that Mount Tipton is
11 unable to secure a \$20,000 performance bond and requesting that the Commission reconsider the
12 bond requirement and perhaps allow Mount Tipton to self fund an account in the amount of \$10,000
13 that would be kept out of the reach of Mount Tipton. Mount Tipton proposed seeding the account
14 with \$5,000 and putting in \$1,000 monthly until it reached \$10,000.

15 4. The Commission did not take action on Mount Tipton's request for the Commission to
16 reconsider the bond requirement.

17 5. On December 12, 2008, Mount Tipton filed a letter stating that Mount Tipton had not
18 yet implemented the emergency surcharge and thus had no funds to report for the month of
19 November 2008, along with a revised rate schedule reflecting the emergency surcharge.

20 6. On January 5, 2009,¹ a letter from Mount Tipton was filed in which Mount Tipton
21 requested an extension, to February 28, 2009, of the filing date for the document describing the
22 outcome of its discussions with Mohave County. Mount Tipton explained in the letter that Mount
23 Tipton had met with Mohave County Supervisor Pete Byers on September 30, 2008, at which time
24 Supervisor Byers told Mount Tipton that he was unable to forgive the taxes or waive the interest and
25 suggested that Mount Tipton meet with the new Supervisor and County Treasurer after they took
26 office. Mount Tipton stated that, in December 2008, Mount Tipton requested for Supervisor Byers to

27
28 ¹ Mount Tipton originally filed this document in the wrong docket number on December 24, 2008. It was filed in the correct docket by the Hearing Division.

1 set up such a meeting and that Supervisor Byers stated that he would arrange the meeting with
2 Supervisor Gary Watson and County Treasurer Melissa Havatone for the end of January or beginning
3 of February. Mount Tipton stated that it is waiting for the date from Supervisor Byers.

4 7. On January 8, 2009, Staff filed a memorandum recommending that Mount Tipton be
5 granted an extension of time to March 6, 2009. Staff stated that due to the significance of the
6 property tax arrearages, Mount Tipton's financial problems, the importance of the discussions with
7 the Mohave County officials, and Mount Tipton's apparent good faith effort to fulfill the requirement
8 before the January 5, 2009, deadline, Mount Tipton should be granted an extension of time to file the
9 document describing the outcome of its discussions with Mohave County.

10 8. Mount Tipton has attempted to comply with the requirements of Decision No. 70559
11 and proactively requested, prior to the deadline, an extension of the deadline to file the document
12 describing the outcome of its discussions with Mohave County. We believe that Mount Tipton would
13 be greatly benefited if it were able to obtain some relief from its tax arrearages through its discussions
14 with the Mohave County officials and that its customers and the public interest would be greatly
15 served by such relief. Thus, we agree with and adopt Staff's recommendation to grant Mount Tipton
16 an extension of time, until March 6, 2009, to file the document describing the outcome of its
17 discussions with Mohave County.

18 9. We also direct Mount Tipton to ensure that the meeting with the Mohave County
19 officials is actually scheduled as expected and to notify the Commission promptly, through a filing in
20 this docket, if there is any delay in the scheduling of the meeting that could jeopardize its ability to
21 comply with the filing requirement.

22 CONCLUSIONS OF LAW

23 1. Mount Tipton is a public service corporation within the meaning of Article XV of the
24 Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

25 2. The Commission has jurisdiction over Mount Tipton and the subject matter of its
26 request for an extension of the filing date for the document describing the outcome of its discussions
27 with Mohave County related to tax arrearages.
28

3. It is reasonable to extend, to March 6, 2009, the deadline for Mount Tipton to file the document describing the outcome of its discussions with Mohave County related to tax arrearages.

4. It is not necessary for the Commission to hold an evidentiary hearing before extending the deadline for compliance with Decision No. 70559 as described herein.

ORDER

IT IS THEREFORE ORDERED that Mount Tipton Water Co., Inc. shall, by March 6, 2009, file with the Commission's Docket Control, in this docket and Docket No. W-02105A-07-0510, a document describing the outcome of its discussions with Mohave County and, if Mount Tipton has succeeded in obtaining a waiver or forgiveness of any back tax liability or has entered into a payment plan with Mohave County for its back tax liability, including the amount waived or forgiven, the amount of back tax liability remaining, and a copy of the payment plan.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____

COMMISSIONER _____

COMMISSIONER _____

COMMISSIONER _____

COMMISSIONER _____

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SNH:db

1 SERVICE LIST FOR:

MOUNT TIPTON WATER CO., INC.

2
3 DOCKET NO.:

DOCKET NO. W-02105A-08-0262

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